



**ARIZONA SUPREME COURT
ORAL ARGUMENT CASE SUMMARY**



**STATE OF ARIZONA v. ROBERT HERNANDEZ
CR-10-0415-AP**

PARTIES:

Appellant: Robert Hernandez

Appellee: State of Arizona

FACTS:

On April 15, 2008, Defendant Robert “Bobby” Hernandez and Daniel Bueno broke into the home of Omar Guzman and Jeni Sanchez in Peoria, Arizona and waited inside. Omar, Jeni, Omar’s younger brother, Pablo, and Omar’s cousin, Maria, arrived at around 1pm. Omar and Pablo entered the house while Jeni and Maria waited in the car outside. Shortly thereafter, Hernandez walked from the house to the car forcing Jeni and Maria into the house at gunpoint. Once inside, Jeni and Maria heard Omar and Pablo in the master bedroom crying and asking “Bobby” not to hurt them or their family. In an adjoining room, Hernandez bound Maria and Jeni. Hernandez asked Jeni about Sonia, Hernandez’s previous girlfriend and mother to his three children. Hernandez then slapped Jeni.

Moments later, Hernandez and Bueno returned to the master bedroom and fired several shots, killing Omar and Pablo. Then both men walked into the adjoining room and fired several more times, killing Jeni and shooting Maria in the head. Maria woke up shortly after Hernandez and Bueno left the residence, and ran out the front door to get help from the neighbor across the street, who called the police. At the hospital, Maria identified Hernandez in a photographic lineup. Later that evening, Hernandez called Martha Gonzales, Sonia’s mother, to inform her that “Omar and Jeni won’t be bothering Sonia anymore.”

A jury found Hernandez guilty of three counts of first-degree murder (premeditated and felony murder), one count of attempted murder, one count of first-degree burglary, and four counts of kidnapping. During the aggravation phase, the jury found four aggravators: the existence of prior convictions, A.R.S. § 13-701(F)(2); the homicides were especially cruel, A.R.S. § 13-701(F)(6); the offenses were committed while on authorized release from state department of corrections, A.R.S. § 13-701(F)(7)(a); and multiple homicides were involved, A.R.S. § 13-701(F)(8). After finding no mitigation sufficiently substantial to call for leniency, the jury returned a verdict of death for each of the three murders.

ISSUES:

1. Did the trial court abuse its discretion by denying Hernandez's request for new defense counsel? Should the court have engaged in a more searching inquiry upon Hernandez's request?
2. Did the trial court commit reversible error by limiting cross-examination of Maria Diaz?
3. Did the trial court properly permit the State to use impeachment evidence against Martha Gonzales as substantive evidence?
4. Was there sufficient evidence to support Hernandez's convictions for premeditated murder?
5. Did the trial court's instructions need to require juror unanimity for each of the *Enmund-Tison* factors?
6. Was there sufficient evidence to support the "especial cruelty" aggravator in the death of Jeni Sanchez?
7. Did the jury abuse its discretion in imposing the death penalty?

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